REMARKS

The Examiner is thanked for the thoroughness of the Office action.

Claims 1-3, 6, 8-9 and 11-13 are rejected under 35 USC §102(e) as being anticipated by Dellevi et al, U.S. Patent No. 6,957,188.

Claims 10 and 14-17 are rejected under 35 USC §102(a) as being anticipated by O'Brien, U.S. Patent No. 6,587,831.

Claims 4 and 7 are rejected under 35 USC §103(a) as being unpatentable over Dellevi in view of O'Brien.

Claim 5 is rejected under 35 USC §103(a) as being unpatentable over Dellevi.

The Examiner's reliance on the cited art with respect to anticipation appears to be sound given the scope of the claims as originally filed. In this regard, Dellevi does teach a computer-implemented employee shift trading system where employees can post shift offers for acceptance by other employees provided that the employees share the same training. O'Brien teaches a similar system that includes the further feature of enable a shift manager to participate in the shift swapping requests. In particular, the manager may approve or deny the request.

While the cited prior art provides for the basic technique of interactive employee shift trading, the subject matter described herein provides additional administrative and management (namely, control) functions that enhance such prior systems. In this regard, the Examiner is directed to Figure 1, which is a Trade Rules display interface provided for use by a supervisor. This display interface enables a supervisor to specify (and then enforce) one or more rules or policies before trades are permitted to proceed. One particular rule/policy is a "Fall-in function 110" that enables the supervisor to define given time periods (for the assigned schedules) that may be traded. For payroll or other purposes (e.g., avoiding overtime expenses), it is desirable to force trades to occur within a given time window. In addition, the supervisor display enables the supervisor to specify a maximum number of time units (reference numeral 128) per a given time period (reference numeral 130) an agent that is permitted to trade a work schedule. This restriction ensures that employees cannot use the system in a way that causes them to lose their full-time status, or to otherwise create unnecessary enterprise costs (e.g., by

increasing overtime). These two rules are now positively recited in amended claims 1 and 10. Neither concept is disclosed or suggested by the cited art.

In particular, the Dellevi system does restrict the shift trade in the event an advance notice requirement has not been met (or if the employees do not share the same training), but the system does not provide for a supervisor display interface wherein a "Fall-in" type of function or a "maximum number of time units per time period" can be specified. Likewise, while O'Brien teaches the ability to have a manager participate in the shift approval, that patent does not disclose any such display interface, and it does not disclose or suggest the recited functions. In the latter regard, the Examiner has cited to the "Business Parameters" paragraph (O'Brien, at column 3, line 63, through column 4, line 9). This paragraph does state that "[s]hift patterns define the start and end times, the maximum times an employee can work the same shift per schedule, and whether the shift may be overstaffed to fill minimal hours. Staffing requirements define the number or range of employees per position per shift." This teaching, however, is in the portion of the O'Brien specification that describes how employee schedules are created by his system. This particular text is not associated with the trading function (the "shift swapping function 570). More to the point, the text does not provide for shift swapping constrained by manager display and specification of a "Fall-in" type of function or a "maximum number of time units per time period."

The amended claims recite these functions and distinguish over the cited art.

In particular, as to alleged anticipation, the Manual of Patent Examining Procedure, at Section §2131, defines that a claim is anticipated under 35 USC §102 only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). While identity of terminology is not required, the "elements must be arranged as required by the claim." For the reasons set forth above, neither Dellevi nor O'Brien provide for a supervisor display interface, let alone the specification and enforcement of schedule trades using the two rules identified above.

Further, as to alleged obviousness, the invention of either claim 1 or 10 cannot be fairly characterized as involving a simple substitution of one known element for another or the mere application of a known technique to a piece of prior art allegedly ready for the improvement. Moreover, because the invention cannot be so characterized, obviousness cannot be made out unless the Office can establish "some articulated reasoning with some rational underpinning" – *viz.*, an apparent reason to combine the known elements in the fashion claimed. See, *KSR Int'l v. Teleflex, Inc.*, 127 S Ct. 1727, 1740-41 (2007). While the articulated reasoning can be based on interrelated teachings of multiple patents, market demand, or the background knowledge of one of ordinary skill, any combination of the cited references would still lack the supervisor display interface that provides for the specification and enforcement of schedule trades using the two rules. Obviousness can only be made out if the subject matter "as a whole" is shown by the cited combination.

Dependent claims 5-9 are patentable for the same reasons advanced with respect to claim 1 from which they depend.

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Accordingly, a Notice of Allowance is requested.

Respectfully submitted,

/David H. Judson/

By: _____

David H. Judson, Reg. No. 30,467